IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

Crl.MC.No. 473 of 2007()

CC.746/2002 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI

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PETITIONER:

SUNDER RAJ R.,
S.I. OF POLICE,
MATTANCHERRY POLICE STATION.

BY ADV. SRI.P.F.FRANCIS
SRI.RADHAKRISHNA PILLAI.G.

RESPONDENTS:

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1. SANGEETH C.U.,
SANGEETH NIVAS,
PALLURUTHY,
KOCHI.

2. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY P.P. SRI.S.U. NAZAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 473 OF 2007

Dated this the 22nd day of February, 2007

ORDER

The petitioner is the Sub Inspector of Police who faces the allegations, inter alia, under Secs.336 and 387 of the IPC. Cognizance has been taken on the basis of a private complaint filed by the 1st respondent against the petitioner. The case was posted to 8/2/07. It is submitted that the petitioner wrongly noted the date as `7/2/07'. But on 8/2/07 and 9/2/07 when the case was called, the petitioner was not present. A non-bailable warrant of arrest has been issued to procure the presence of the petitioner.

2. The petitioner is now prepared to appear before the learned Magistrate. He apprehends that the learned Magistrate may not consider his application for bail on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Sec.482 of the Cr.P.C. may be issued in favour of the petitioner to the learned Magistrate to release him on bail when he appears and applies for bail.

3. I find absolutely no reason to invoke the powers under Sec.482 of the Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this Crl.M.C. is dismissed. Needless to say that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-
(R. BASANT, JUDGE)

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//true copy// **P.S. To Judge**